

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1661 – SB 2021

April 9, 2014

SUMMARY OF ORIGINAL BILL: Establishes a 180-day mandatory minimum for the manufacture of methamphetamine and a 30-day mandatory minimum for simple possession of methamphetamine.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Not Significant

Other Fiscal Impact – The proposed legislation could result in increased local expenditures in the amount of \$71,300 if current offenders are not serving any jail time for violations of Tennessee Code Annotated § 39-17-418. However, it is reasonable to assume that the average offender is serving some time for such violations offsetting the potential increase. Fiscal Review does not have enough information to reasonably estimate the time an average offender is serving for violations of Tennessee Code Annotated § 39-17-418.

SUMMARY OF AMENDMENT (016083): Clarifies that the proposed legislation does not preclude an offender from participating in a drug or recovery court that is certified by the Department of Mental Health and Substance Abuse Services (MHSAS). Any offender participating in such a program may receive sentence credit up to the full mandatory minimum.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The proposed legislation establishes a mandatory minimum sentence of 180 days for a violation of Tennessee Code Annotated § 39-17-417(a)(1)—the manufacture of a controlled substance—when such violation is related to methamphetamine (“meth”) and requires each offender to serve 100 percent of the sentence received, including those that exceed the mandatory minimum sentence.
- According to the Department of Correction (DOC), there has been an average of 143.2 admissions per year for the last 10 years under Tennessee Code Annotated § 39-17-417(c)(1) and (2) (manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sale methamphetamine or cocaine). It is assumed that 45 percent (143.2 x .45

= 64) of these admissions are meth-related.

- It is further assumed that 20 percent ($64 \times .20 = 13$) of these meth-related offenses were for the manufacture of meth. The proposed legislation will result in 13 offenders per year serving a mandatory 180 day sentence and 100 percent of any sentence imposed.
- According to data from the DOC, the average time served for a meth related offense under Tennessee Code Annotated § 39-17-417(c)(1) and (2) is 2.96 years (1,081.14 days). Thus, the mandatory minimum provision will not increase state expenditures as the average offender already serves more than 180 days.
- The proposed legislation establishes a mandatory minimum of 30 days for simple possession/casual exchange of methamphetamine, a Class A misdemeanor.
- The average cost of housing an inmate in a local jail in 2014 is \$62.52 per day.
- According to statistics from the Administrative Office of the Courts (AOC), there has been an average of 375 convictions per year for the last five years under Tennessee Code Annotated § 39-17-418. It is assumed that 10 percent ($375 \times .10 = 38$) of these admissions are meth-related.
- It is assumed that the proposed legislation will result in at least 38 offenders each year serving the mandatory minimum sentence of 30 days.
- The proposed legislation could result in increased local expenditures in an amount of \$71,273 ($38 \text{ offenders} \times 30 \text{ days} \times \$62.52 \text{ cost per inmate per day}$).
- It is reasonable to assume that the average offender is serving some time for a violation of Tennessee Code Annotated § 39-17-418 that would offset the potential cost. Fiscal Review, however, does not have enough information to reasonably estimate the time an average offender is serving for violations of Tennessee Code Annotated § 39-17-418.
- The proposed legislation does not create any new offenses, but merely increases the sentencing for some violations. It is assumed that any increase in the caseloads of the AOC, the District Attorneys General Conference, and the District Public Defenders Conference can be accommodated within existing resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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